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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,054	02/02/2006	Werner Petri	INA-24	4849
20311 7590 07/09/2008 LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			EXAMINER ALTUN, NURI B	
			ART UNIT 4165	PAPER NUMBER
			MAIL DATE 07/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/567,054	PETRI, WERNER	
	Examiner	Art Unit	
	Nuri Boran ALTUN	4165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02 February 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a first Office Action Non-Final rejection on the merits.
Claims 1-17 as originally filed, are currently pending and have been considered below.

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: **Clamping Device for a Traction Means of a Traction Mechanism Used on Internal Combustion Engines.**

2. The disclosure is objected to because of the following informalities:

Character 5 is used to describe "drive element" on page 10, line 16; and "output element" on page 10, line 34 in the specification.

Character 22 is used to describe "coupling point" on page 11, line 2; and "articulation point" on page 11, line 24 in the specification.

Page 11, lines 26-28 of the specification recites "Figure 4 shows a traction means 4 which is prestressed to a maximum degree. For this purpose, the actuating lever 10b is pivoted in the counterclockwise direction" which appears to be wrong since actuating lever 10b is not shown in Figure 4.

Appropriate correction is required.

Claim Objections

3. Claim 7 is objected to because of the following informalities: “**Character 10a, 10b are used to describe the clamping lever whereas same characters are used to describe the actuating lever in the previous claim**”.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims **1, 3, 4, 6-10, 12-15 and 17** are rejected under 35 U.S.C. 102(b) as being anticipated by **Bogner et al. (DE10146612)**.

As per claim 1, Bogner et al. teach a clamping device (21), for a traction means (11) of a traction mechanism (see Fig. 1) whose rotatably mounted roller (10) which is connected to a spring means (12) bears in a frictionally locking fashion against the traction means (page 11, lines 12-17, see Fig. 1 and 8; since the spring acts on the swivel arm which is connected to the base part of the tensioner on which there is tension roller, it is construed that tension roller is also connected to spring), the traction mechanism which is assigned to an internal combustion engine including a drive (40) and an output of a starter generator (30), characterized in that

the clamping device is assigned a pivotable roller lever (22) which is supported on a spring means and on which the roller is positioned (see Fig. 1 and 8),

and the spring means is also connected to an actuating lever (33, 52) (page5, lines 7-9, page11, lines 16-19; since both spring and actuator are connected to the base part, it is construed that spring is connected to the actuating lever) which, by means of an actuator (35,55) in conjunction with a controller (28), pivots the actuating lever between at least two positions, as a function of an operating state and/or at least one operating parameter of the internal combustion engine (page5, lines 9-22; adjusting the variable effective length is construed to be the same as pivoting the lever)

As per claim 3, Bogner et al. teach the actuating lever (33, 52) being pivotable between a first position, corresponding to a starting mode, and a second position, corresponding to a generator mode, of starter generator (30) (page7, lines 8-10; page8, lines 7-8; page 13, lines 5-6).

As per claim 4, Bogner et al. teach the actuator (35, 55) pivoting the actuating lever (33, 52) between a plurality of positions which are determined as a function of the operating state of individual assemblies and/or operating parameters of the internal combustion engine (page7, lines 8-10; page8, lines 7-8; page 13, lines 5-6; see Fig. 5 and 7).

As per claim 6, Bogner et al. teach the actuating lever (33, 52) being adjustable by means of an electrically actuated actuator (25).

As per claim 7, Bogner et al. teach the clamping lever (33, 52) of which interacts with a pneumatically acting actuator (page8, lines 20-22).

As per claim 8, Bogner et al. teach a hydraulically acting or electro-hydraulically acting actuator (page8, lines 20-22) adjusting the actuating lever (33, 52).

As per claim 9, Bogner et al. teach, for the purpose of hydraulic actuation, a lubricant circuit or a pressurized circulation lubrication system of the internal combustion engine acts on the actuator (page8, lines 20-22; it is construed that hydraulic actuation requires lubricant circuit or a pressurized lubrication system of the engine) and triggers adjustment of the actuating lever (33, 52) in conjunction with the controller (28).

As per claim 10, Bogner et al. teach the control process (28) of which includes signal processing with at least one sensor (29) which actuates the actuator (25) as a function of operating states of an assembly and/or operating parameters of the internal combustion engine (page13, line 20 – page14 line4).

As per claim 12, Bogner et al. teach the clamping device, to which a hydraulically acting spring means (47) is assigned (page 15, lines 12-15).

As per claim 13, Bogner et al. teach the roller lever (22) of the clamping device (21) being pivotable about a rotational axis (16) on which the rotatable roller (10) which is assigned to the traction means (11) is positioned (see Fig. 1).

As per claim 14, Bogner et al. teach the clamping device, each apex of the triangular roller lever being assigned in each case one of the components of the roller spring means and rotational axis (see Fig. 1 and 8).

As per claim 15, Bogner et al. teach an offset "R, r" occurring between an articulation point (24) for the spring means and a pivot (26) of the actuating lever irrespective of the end position or position of the actuating lever (page12, line20 – page

13, line2; since spring is connected to the base part, the rotation bearing is construed to be the articulation point for the spring means).

As per claim 17, Bogner et al. teach an axial offset "l.sub. 2" being set between the rotational axis (16) and the articulation point (24) for the spring means irrespective of the position of the roller lever (page12, line24 – page 13, line2; see Fig. 2).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims **2 and 11** are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Bogner et al. (DE10146612)**, in view of **Bonkowski et al. (DE10057818)**.

As per claim 2, Bogner et al. teach the clamping device (21) which prestresses a traction means (11) of a traction mechanism (page8, lines 7-10), a rotatably mounted assembly which is supported by a spring means (12) being provided as a clamping device and its roller (10) bearing in a frictionally locking fashion against the traction means (see Fig. 1),
the traction drive (11) which is assigned to the internal combustion engine including a drive (40) and output of the starter generator (30), characterized in that

the spring means is connected at one end to a pivotably arranged actuating lever (33, 52) (page5, lines 7-9, page11, lines 16-19; since both spring and actuator are connected to the base part, it is construed that spring is connected to the actuating lever),

an actuator (35,55) pivoting, in conjunction with a controller (28), the actuating lever automatically between at least two positions or end positions as a function of an operating state and/or at least an operating parameter of the internal combustion engine (page5, lines 9-22; adjusting the variable effective length is construed to be the same as pivoting the lever).

However Bogner et al. fail to teach the spring means being connected at the other end to the starter generator.

Bonkowski et al. teach traction mechanism drive for a starter generator with the concept of having spring means (10) being connected at the other end to the starter generator (2) (see Fig. 1 and 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mechanism of Bogner et al. to include spring means taught by Bonkowski et al. in order to provide a better communication of parts and therefore better prestressing of traction mechanism.

As per claim 11, Bogner et al. further teach the device with a spring-damper unit being used as the spring means (10) (page7, line 17 – page8, line 2).

8. Claims **5 and 16** are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Bogner et al. (DE10146612)**, in view of **Sayer (6,267,023)**.

As per claim 5, Bogner et al. teach all the structural elements of claimed invention as mentioned above, however fail to teach an actuating lever with two support faces which are at an angle with respect to one another and which, in conjunction with reference faces of a housing of the internal combustion engine, ensure defined end positions of the actuating lever.

Sayer teaches a lower steering arm assembly for an implement attaching device having an actuating lever (43) with two support faces (44,45) which are at an angle with respect to one another(col.5, lines 39-40) and which, in conjunction with reference faces (46,47) of a housing (18) of the internal combustion engine (since the invention is used for a steering arm; it is construed that it could also be used for an internal combustion engine part), ensure defined end positions of the actuating lever (see Fig. 3 and 4).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mechanism of Bogner et al. to include the actuating lever taught by Sayer in order to provide better movement of the mechanism.

As per claim 16, Bogner et al. teach all the structural elements of claimed invention as mentioned above, however fail to teach an angle of inclination which influences the offset between the articulation point and the pivot of the actuating lever being set between the support faces of the actuating lever and the reference faces of the housing.

Sayer teaches an angle of inclination which influences the offset (col.5, lines 24-26, lines 46-50, lines 62-63. Since the lever moves up and rotates near the indentation; it is construed that the angle of inclination influences the offset) between the articulation

Art Unit: 4165

point (60) and the pivot (38a) (col.5, lines 58-62) of the actuating lever (43) being set between the support faces (44, 45) of the actuating lever and the reference faces (46, 47) of the housing (18) (see Fig. 3 and 4).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mechanism of Bogner et al. to include the angle of inclination taught by Sayer in order to provide better movement of the mechanism.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nuri Boran ALTUN whose telephone number is (571) 270-5807. The examiner can normally be reached on Mon-Fri 7:30 - 5:00 with first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571 272 6782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4165

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NBA

/Lynda Jasmin/
Supervisory Patent Examiner, Art Unit 4165